

Ranger Chuck Oliver
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712 N. Main Street
Darby, Montana 59829
and,
Forest Supervisor Barry Paulson
Bitterroot National Forest
1801 North 1st Street
Hamilton, Montana 59840

RECEIVED

JUL 31 2007

Ravalli County Commissioners

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From: Lost Horse Canyon Coalition (LHCC)

Subject: Additional scoping comments on Proposed Lost Horse Quarry
CE/DM (FS Notice Letter, dated 5/31/2007) and Ravalli
County Road and Bridge Department Supervisor D. Ohnstad's
Lost Horse Mine Plan of Operations (dated April, 2007).

Date: July 30, 2007

Dear Ranger Oliver and Supervisor Paulson:
We appreciate Ranger Oliver's extending the Forest Service's deadline
for public scoping comments on this proposed project to July 31, 2007.
The Lost Horse Canyon Coalition (LHCC) herein provides additional
scoping comments regarding Mr. Ohnstad's proposed Lost Horse Mine Plan
of Operations (PO), and Ranger Oliver's Scoping Letter describing a
proposed Categorical Exclusion (CE) to initiate long-term,
industrial-level mining activity within the old Lost Horse Canyon
Quarry area.

The Lost Horse Canyon Coalition is comprised of local residents and
recreationists who extensively use the Canyon's area and who will be
significantly and adversely affected by these proposed actions for at
least one decade or more. Mark and Susan Behrman and Carol Hansen are
the LHCC contact persons. The Behrman's phone number is (406)
363-2834, and Carol Hansen's phone number is (406) 363-2526.

The LHCC provides this additional comment letter (our 1st comment
letter is dated July 18, 2007) to add new information to the FS
project file and to further discuss some of the issues and concerns
the LHCC raised earlier.

The Ravalli County Commissioners held a public hearing on this
proposed mining action, on July 23, 2007. Statements and responses
made during the hearing provided further insight and information
relating to this proposal. At this time, the LHCC makes a formal
request to the Forest Service to add a copy of the full public record
(made at the Commissioner's 7/23/07 hearing) to their project file for
this proposed action.

The LHCC believes that the Commissioner's 7/23/07 public hearing
recording will bear out that:
- One person from the audience rose to speak in favor of the proposed
mine. After the hearing, it was learned that he apparently is a
Forest Service employee in charge of the road crew for the BNF. He
has the same constitutional rights as any other person to speak
publicly on the proposed project.

The purpose of the hearing was to help inform the Commissioners and the public (through the press) of the issues and concerns, not take a vote. Disclosure of his employment within an agency that has a direct interest in the proposed project would perhaps have better served the proceeding's intent. Based on this new information, it now appears that the official record should show that, (other than involved County and Federal government personnel), no one attending the hearing and speaking for the record was in favor of the proposed action.

- Our hearing notes indicate that Department Supervisor Ohnstad mentioned the project proposal started about 2 years ago and that it was a cooperative effort with the FS. Our notes also seem to show that a Forest Service representative attending the hearing said something to the effect that the FS role was just reviewing the County's permit request that was brought to it; they would make a decision after the facts were in, and indicated the FS doesn't have a direct interest in the outcome. We believe the record should show the Forest Service does have a "direct interest" in the mine's special use permit application outcome. The PO (p. 14) mentions that materials would be used in road resurfacing on two forest roads. Other oral statements that have been made articulated that the FS intended to use mined materials for other federal road projects too. If so, this agency connected interest needs to be fully disclosed and discussed.

- Our hearing notes appear to show that Department Supervisor Ohnstad also mentioned that the quarry had existed for fifty years and had never been abandoned. The LHCC maintains that the quarry site has not been used in approximately thirty years, (except for a very minor use in 2002; see PO at 1). That means that over its 50 year existence, the quarry has been (industrially) inactive for the majority of the time. As we stated in our 7/18/07 letter: "The proposed reopening of the Lost Horse Quarry site is a new industrial mining operation in a defunct site which has a high potential for long-term significant and adverse direct and indirect impacts stemming from the past, present, and reasonably foreseeable actions."

- Supervisor Ohnstad mentioned that the mine would not operate all the time and there would be only about 6 to 8 weeks of actual activity during the PO's 6 month operational window each year. This was the first time (as far as we know) that the proposed action's activity period has been described this way, and it is completely different than the PO's disclosure. The PO (p. 14) vaguely mentions only that, "the mine would not be in continual use during this period, but this is the time period when operations may occur", [8am/5pm, Mon./Fri., mid-October to mid-April]. There is no written statement we could find that stipulated the operational activity period would actually be 6-8 weeks, nor is there any assurance whatsoever. In fact, the sole supporting documents articulate only that the "Mine would [may] operate from mid-October to mid-April," (PO at 7, 14, FS 5/31/07 Notice).

Given the apparent problems with many other oral claims and questionable numbers provided in the official PO, the LHCC believes that little faith can be attached to this 6/8 week statement too. How was the 6/8 weeks arrived at or calculated? Who would actually keep track of the actual mine working time, and what difference would it make if it was exceeded?

- In the Commissioner's hearing, the Road Department Supervisor's low-ball economic costs that were orally claimed and used in newspaper articles were strongly questioned. Subsequently, he appears to have acknowledged that his earlier cost/value assertions did not contain all the direct costs that would be reasonably incurred. The Forest Service is required to take a hard look at all costs and benefits claimed by the County Road Department since the proposed project's justification depends heavily on its true financial value (and costs) to the public. The FS analysis needs to factor in the costs of adversely affecting the highly-valued but non-priced uses of the area [e.g., fishing, hunting, wildlife viewing, riding, hiking, climbing, skiing, etc.]. Potential other costs from accidents or loss of lands due to widening of the narrow Lost Horse Road, or loss of property values should be included as well.

- During the hearing, we believe that a FS representative assured the Commissioners that the proposed project complies with the 1987 Forest Plan, and clarified that it depends on one's interpretation of the Visual Quality Objective (VQO) Standard. The 1987 Plan states the MA3c VQO Standard for this area is "retention", (LRMP at p. III-31). "Retention" means "human activities are not evident to the casual Forest visitor", (LRMP at p. IV-44). The LHCC does not believe that it is very hard to comprehend or interpret the 1987 Plan's concise language. We do surmise that if the "new" proposed Forest Plan was in effect, there would probably be no meaningful protection because it would have no Plan Standards. However, the 1987 Plan is still in effect, and the VQO Standard seems clear on its face. The FS has procedures to modify or disregard a Plan Standard by 'amending' the Plan for a specific Standard or area. A 'non-significant amendment' can be used if the impacts are minor, but a 'significant amendment' would require an EIS be prepared. The LHCC maintains that amending the MA3c VQO Retention Standard just to allow the adverse impacts from this proposed mining project to proceed would be a significant amendment.

The County's Plan of Operations arbitrarily dismisses any potential for adverse impacts to Lost Horse Creek. Lost Horse Creek is approximately 270 feet south of the mine project boundary; the junction of Lost Horse Road and FR 62969 [mine access road] is approximately 150 feet from Lost Horse Creek, (PO at 10). The PO says only that 'silt fencing may be installed', and 'routine roadway operations ... would control dust ... reducing erosion and potential sediment delivery', and that 'no monitoring' is planned. Bull trout and westslope cutthroat trout are found in Lost Horse Creek. Silt fences can fail or not work as planned. Natural weather events can cause unforeseen situations.

The County's Plan of Operations provides no meaningful assurances that adversely impact the watershed and fisheries. And, since no monitoring is planned, if erosion or sedimentation did occur there would be no 'official' documentation of it. Over the ten or twenty year (reasonably foreseeable) operational period, the proposed industrial mining action's potential for adverse effects on the Creek or resident fish dramatically increases. There are no assurances and the National Forest Management Act will be fully complied with. A Categorical Exclusion may not be used because of the 'extraordinary circumstances' involved.

We question whether the decibel numbers presented in the PO are correct and accurate - or will be as low as claimed. The Plan of Operations (PO at 8) acknowledges that "noise levels ... are anticipated to increase during operations". It states that a clothes dryer or normal conversation at three feet distance, "has a decibel reading of 68". It further states that "Decibel readings of a primary crusher plant operating ... were recorded at 84 decibels immediately adjacent to the plant". It goes on to say at 200 feet distance, the decibel readings were between 72 and 74; at 500 feet, the decibel readings were between 70 and 74; and at 750 feet, the decibel readings were between 68 and 72.

The decibel numbers presented in the PO seem illogical. We question how: At a 750 foot distance the high decibel reading can be the same as the low decibel reading (72/72) at only a 200 feet distance. At a 750 foot distance the high decibel reading is slightly higher than the low decibel reading (72/70) at 500 feet distance. At a 500 foot distance the high decibel reading is exactly the same as the low decibel reading (74/74) at the 200 foot distance.

Similar to other numbers used in the PO, or otherwise publicly presented, (approx. 4.9 ac., costs, quantity of target materials, duration of operations, etc.), there seems to be significant questions as to the decibel readings accuracy and/or reliability. The PO does not disclose or discuss if the 84 decibel reading "of a primary crusher plant operating" was only the crusher itself, or whether it included all vehicles and machinery that could be working at one time. The Forest Service is required to insure that all disclosures and statements made in a special-use permit are accurate.

It seems the Mt. DEQ requires supporting documentation for a permit application made to their department. The SMEs (Small Mine Exemption Statement) apparently contains an affidavit in affirmation of the permit documentation, (the Plan of Operations dated April 2007). There appear to be significant questions regarding the validity of the numbers used and/or statements made in the PO, and sworn to in the SMEs Affidavit. This creates a significant concern relating to the for the proposed mining action. If a document covered by an affidavit is found to be questionable, how can other statements regarding the proposed project (made orally or on paper) be trusted to be accurate?

The Forest Service is required to independently substantiate the accuracy of statements made in support of an application for a special permit. "Information; If an agency requires an applicant to submit environmental information for possible use by the agency The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. It is the intent of this paragraph that acceptable work not be redone, but that it must be verified by the agency." (40 CFR 1506.5(a))

During the 7/23/07 hearing, the Commissioners (and others) mentioned they believed they didn't have enough information regarding the proposed project. The LHCC and the general public has similar concerns, and the Forest Service's analysis can help to rectify this problem.

The FS needs to also require accurate information and disclosure of the following concerns:

- Question if GUEM Environmental Consulting was given instructions or parameters which would limit mine size considerations and discussions to under 5 acres. Find out if GUEM was given any other instructions or information that had to be used in the writing of the Plan of Operations. If so, what were they and how were they used? If a draft of the PO was reviewed by the County Road Department, did they rewrite or delete any information between the draft and the final copy?
- Is the supposedly targeted high-grade material (for chip seal) really available in sufficient quantity to justify the proposed action?
- What would be the quantities/percentages of chip seal materials compared to the quantities/percentages of other materials likely to be?
- How many other potential mine (pit) sites could be available? Are there less impactful alternatives available?
- We request that the FS require that an accurate survey of the proposed mining site be prepared. We believe that GUEM only used a GPS to approximately arrive at acreages used in PO (approx. 4.9 ac.).
- It appears that up-slope sloughing which will enlarge the affected area is highly likely due to steep banks. Forest Road #62969 will be "improved" (PO at 6) and will increase the total disturbed area as well. Will this stay within the FS's 5 acre CE limits?
- Will the project lead to a potential "taking", or possibly lead to other proceedings to widen the narrow Lost Horse Road to meet safety concerns?
- Would the increased "level of service" (PO at 6) or other potential road improvements (widening, surfacing, etc.) lead to higher speeds or increased traffic levels in this area?
- How much actual field work, measurements and assessment was done at the proposed site by GUEM or the County Road Department?
- How many dump trucks and trailers could be expected to travel empty or loaded to the mine site each operational day? How many would be likely each year? Could these levels increase in the future?
- What liability potential would the County assume if this project is allowed? Would the FS incur any liability potential?
- What are the true likely costs and benefits resulting from the proposed action?
- Does the County have the necessary crushing and earth-moving equipment to do what it is claiming in the PO? If not, what would be the additional approximate costs to the taxpayers to purchase that equipment?

- It appears the Mt. DEQ SMES allows about five acres to be disturbed at any one time. We understand this may mean that if three acres were mined, (disturbed) and then were reclaimed, five more acres would then still be allowed to be disturbed. What is the potential for this to take place in the proposed action? What would prevent it?

The above list of concerns and questions is in addition to ones raised elsewhere in this letter and our 7/18/07 letter. There are likely many other questions from the concerned publics that will need responses.

There were questions raised in the Commissioner's hearing about whether 'mitigations' could make a difference. The LHCC does not believe that the issues, concerns and potential adverse impacts can be 'mitigated' away in this specific proposed action. We would point out that the NEPA/CEQs state that mitigation can also include, "avoiding the impact by not taking a certain action or parts of an action". (40 CFR 1508.20(a))

The LHCC believes that part of the problem stems from the fact that neither the County or the FS has analyzed potential or existing gravel pits and their likely impacts in any recent planning process. Instead, it is done piecemeal as in this case. In thirty years, the number of residences and recreational users has vastly increased in the Lost Horse area and around the County as well. What may have been more acceptable uses in the past may now be significantly altered by the intervening residential growth and use patterns.

The LHCC maintains that the County's proposed Lost Horse Mine is an ill-considered proposal. The potential adverse impacts to the in-place resources likely far outweighs any benefits from mining common materials in this drainage. There appear to be numerous examples of extraordinary circumstances which should prevent the use of a simple CE. The potential adverse effects are significant enough that an EIS should be required.

Please keep us on your mailing list for this project.

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